

## **REMARKS**

Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

### **Status of the Claims**

Claims 36-65 are currently pending in the present application. Claims 36, 45, 50, 51, 54-56, 60-62, and 65 have been amended to even more clearly describe the claimed subject matter. Support for these amendments may be found in the specification at, *inter alia*, page 12, line 17 through page 13, line 15. No new matter has been introduced.

### **Claim Objections**

Claims 50 and 65 were objected to as allegedly failing to further limit the subject matter of a previous claim. (Office Action at page 2.) Claims 50 and 65 have been amended to put the claims in independent form. In light of these amendments, withdrawal of the objections to claims 50 and 65 is respectfully requested.

### **Claim Rejections Under 35 U.S.C. §112**

Claims 36-56 were rejected because the phrase “an amino acid, a derivative thereof” is allegedly vague and indefinite. (Office Action at page 2.) Although Applicants respectfully disagree, the claims have been amended to further clarify that the referenced derivatives are amino acid derivatives. Applicants believe that the term “derivative” is readily understood by a person skilled in the chemical arts to mean “a compound, usually organic, obtained from another compound by a simple chemical process” and/or “an organic compound containing a structural radical similar to that from which it is derived.” *See Grant*

& *Hackh's Chemical Dictionary* at 177 (5<sup>th</sup> Ed. 1987). In the current invention, such derivatives include, but are not limited to, salts and solvates of amino acids, as described in the specification at page 13, lines 6-8.

Claims 41 and 56 were also rejected because it is allegedly unclear what the term “plurality” encompasses. Applicants respectfully disagree, and submit that the term “plurality” is well known not only to those skilled in the relevant art, but to the general public as well. The term “plurality” simply reflects the state of being plural, i.e., two or more. See, e.g., *Webster's Third New International Dictionary* (2002) (“1a: the state of being plural”); *Resqnet.com, Inc. v. Lansa, Inc.*, 346 F.3d 1374,1382 (Fed. Cir. 2003)(“plurality” means at least two); *Bowers v. Baystate Technologies, Inc.*, 320 F.3d 1317, 1332 (Fed. Cir. 2003) (“plurality” means comprising or consisting of more than one).

Based upon the foregoing, Applicants believe that the language of claims 36-65 is definite and would easily be understood by a person of skill in the art. Accordingly, withdrawal of the rejections of claims 36-65 under §112 is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §102**

Claims 36-65 were rejected as allegedly being anticipated under 35 U.S.C. §102 by Duan, *et al.*, U.S. Patent No. 5,725,841 (“the Duan patent”) and/or Clark, *et al.*, U.S. Patent No. 6,655,379 (“the Clark patent”). Applicants request reconsideration of this rejection because it does not comply with MPEP §2307.02.

MPEP §2307.02 requires that when, as in the instant patent application, “claims corresponding to claims of a patent are presented” and a “ground of rejection is also

applicable to the corresponding claims in the patent, any letter including the rejection must have the approval of the TC Director.” MPEP §2307.02; *See also* MPEP §1003.

Applicants believe that the rejections of claims 36-65 based upon the Duan and Clark patents are equally applicable to the corresponding claims of U.S. Patent No. 6,136,294 (“the 294 patent”), which Applicants identified in their Preliminary Amendment. (Preliminary Amendment at p. 11.) The Duan patent, for example, issued before the filing date of the 294 patent, and the Clark patent issued from a patent application that was filed before the filing date of the 294 patent.

The outstanding Office Action, however, does not bear the signature of the Technology Center Director or any other indication that, as required by MPEP §2307.02, the Technology Center Director approved the rejections. Accordingly, Applicants respectfully request that the rejections be reconsidered and, if they are maintained following further review, that they be formally approved by the Technology Center Director.

### **Conclusion**

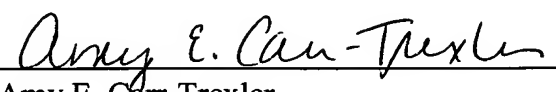
Based upon the foregoing amendments and arguments, Applicants respectfully request reconsideration of the Office Action and withdrawal of all claim objections and rejections.

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**PATENT**

Should the Examiner have any questions or wish to further discuss any of the arguments set forth in this response, the Examiner is encouraged to contact the undersigned at the number below.

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